

**PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
COMMISSION DIRECTIVE**

ADMINISTRATIVE MATTER	<input type="checkbox"/>	DATE	<u>February 15, 2012</u>
MOTOR CARRIER MATTER	<input type="checkbox"/>	DOCKET NO.	<u>2011-482-E</u>
UTILITIES MATTER	<input checked="" type="checkbox"/>	ORDER NO.	<u>2012-123</u>

THIS DIRECTIVE SHALL SERVE AS THE COMMISSION'S ORDER ON THIS ISSUE.

SUBJECT:

DOCKET NO. 2011-482-E - BHC Trucking, Complainant/Petitioner v. Duke Energy Carolinas, LLC, Defendant/Respondent - Discuss this Matter with the Commission.

COMMISSION ACTION:

My motion pertains to the Complaint filed by BHC Trucking against Duke Energy, Docket no. 2011-482-E. It is undisputed that Duke had undercharged BHC Trucking for electric power for an extended period of time, and that Duke seeks an adjustment for the last six months' undercharge pursuant to Commission Regulation 103-340. BHC Trucking seeks an order from this Commission requiring Duke to accept two months' adjustment rather than the six months' adjustment authorized under the regulation. The only justification offered by BHC Trucking for its position is its statement in the initial complaint to the effect that since the meter had been replaced, it must have been faulty, and that Duke should therefore only be permitted to recover the amount of undercharge accrued after the meter replacement.

No evidence has been offered by BHC Trucking to support its assertion or to rebut the verified testimony of Duke witness Barbara Yarbrough or ORS witness April Sharpe, both of whom explain in some detail the tests performed on the meter and the test results. BHC Trucking has requested leave to take depositions pursuant to Commission Regulation 103-834. Duke has opposed the motion to permit depositions and moved for summary judgment.

Commission Regulation 103-834 authorizes the Commission to deny requests to permit depositions where they are deemed to be not meritorious. Furthermore, Section 58-27-1990 of the South Carolina Code expressly authorizes the dismissal of a petition without a hearing if in its opinion a hearing is not necessary in the public interest or for the protection of substantial rights. In this case, BHC Trucking has presented no testimony or other evidence which would give rise to any material issue of fact. Under these circumstances, it would be inappropriate to permit depositions. Furthermore, because no material issue of fact is presented in the record, summary judgment is warranted. Therefore, I move that we deny the request by BHC Trucking for leave to depose witnesses and grant Duke's motion for summary judgment.

PRESIDING: HowardSESSION: RegularTIME: 2:00 p.m.

	MOTION	YES	NO	OTHER
FLEMING	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HALL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

HAMILTON	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
HOWARD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
MITCHELL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
WHITFIELD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
WRIGHT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Absent

NARUC Business - Attending an ICER Workshop in Brussels, Belgium

(SEAL)

RECORDED BY: J. Schmieding

